

REMARKS/ARGUMENTS

Claims 1, 5, 12, 14, 27, 28 and 42-47 are active.

In response to the Examiner's Restriction Requirement, compounds of Claims 1-18 and 27-29 such that Cy is phenyl, R1 is CH₂-A or CH₂-CH₂-A and A is phenyl were selected. While the Examiner has maintained this requirement the scope of his examination to include naphthyl as a substituent for A (see page 2 of the Official Action). Method claims 30-41 have also been restricted out of the present application.

Accordingly, Claims 1 and 14 and those claims depending therefrom have been amended to restrict to the elected subject matter. Further, Cy in Claims 1 and 14 are restricted to a phenyl substituted by

a phenyl;

an oxadiazole group;

1 or 2 moieties selected from the group consisting of -NH-CO-R³, -SO₂-NR³R^{3'} or -CO-NR³R^{3'} wherein R³ and R^{3'} are independently selected from H and (C₁-C₁₅)alkyl; or B-R⁴ wherein B is an ethynyl group and R⁴ is a (C₁-C₁₂)alkyl phenyl.

Support for which is found in Claims 3, 4, 6, 7, 13-14 and the specification as originally filed.

Claim 46 is the elected species from Example 320 of the specification, pg 219.

Claims 42-45 and 47 find support in Claim 27 and the specification as originally filed.

In the Official Action, a rejection based on US Patent No. 6,627,767 (“Liu”) has been raised.

The basis of the rejection is that compounds in Examples 11 and 30 of the Liu patent fall within the broadest definition of the compound of Formula I. The Examiner continues this analysis to reject certain claims as allegedly being obvious also in view of the Liu patent not restricted to those two specific examples.

As Claims 6, 7 and/or 8 were not rejected and portions of those claims have been incorporated into Claim 1, the rejections under 35 USC 102(b) and 35 USC 103(a) are no longer applicable. Indeed, Liu does not describe the compounds provided in the claims nor are they adjacent homologs that permit a conclusion that the claims simply would have been obvious. Withdrawal of the rejection is requested.

Claims 1, 2 and 3 as obvious in view of a publication by Burrows et al and, in particular, compound 4 in Scheme 1 at page 893. The sole difference between this compound identified as number 4 in Burrows and that being claimed is noted by the Examiner in the discussion bridging pages 15-16. The Examiner contends that notwithstanding these differences it would have been obvious to saponify the compound of Burrows to arrive at what is claimed in Claim 1. As Claims 6, 7 and/or 8 were not rejected and portions of those claims have been incorporated into Claims 1 and 14, the rejection is no longer applicable. Indeed, Burrows does not describe the compounds provided in the claims nor are they adjacent homologs that permit a conclusion that the claims simply would have been obvious.

Withdrawal of the rejection is requested.

The rejection under 112, second paragraph is no longer applicable as “derivative” has been removed from the claims. In addition, specific definitions of the substituents in the compound of Formula I have been provided thereby the aspect of “substituted” is similarly no longer applicable. With respect to the rejections based on Claims 28-29, Claim 29 is cancelled and Claim 28 has been amended to provide at least one additional drug. Nothing is indefinite about this phrasing.

Withdrawal of the rejection is requested.

Finally, to the rejection under 112, first paragraph which alleged that the specification lacks an enabling disclosure to make any and all possible compounds covered by the general formula defined in the claim (pages 7-9 of the Office Action). The rejection contends while certain substituents of the phenyl groups are enabled, not all of the phenyl groups are suitably described with underlying synthesis discussion. However, as the specific substituents have been defined with the guidance provided in the specification (see also the cancelled, non-elected process claims), one of ordinary skill in the art could make the claimed compounds without undue experimentation (even if some experimentation would be required).

Withdrawal of the rejection is requested.

Application No. 10/501,344

Reply to the Official Action of January 11, 2008

A Notice of Allowance for all pending claims is requested.

Respectfully Submitted,

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